

ANOKA-HENNEPIN SCHOOL DISTRICT

EDUCATIONAL SERVICE CENTER

11299 Hanson Blvd. NW, Coon Rapids, MN 55433 763-506-1000 TTY: 763-506-1180 Fax: 763-506-1003 www.anoka.k12.mn.us

May 26, 2009

Letter of Appeal
Schools and Libraries Division
Dept. 125 – Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

Dear Sir or Madam:

This is a follow up to our letter of appeal dated March 13, 2009 (attached) and your response to that appeal dated May 08, 2009 (attached). In reviewing your response, we believe that our appeal may have been misunderstood and as such we are following up with this letter of clarification and request reconsideration before we make a decision whether to appeal to the FCC.

Of the \$105,117.90 identified as excess reimbursement, we are not disputing the \$15,117.90 identified as reimbursement for ineligible items. What we would like reconsidered is the remaining \$90,675 and how we correct the filing error related to the improper amortization of one-time costs – cost which should have been reimbursed in 2006 and 2007 instead of being reimbursed in 2005. We are requesting this for the following reasons:

- We had filed in our Form 471s for Funding Years 2006 and 2007 one third, the one time cost as per the amortization schedule. The applications were approved.
- Even though second and third year amortized one time funds were approved we never filed for these funds to be reimbursed since we had incorrectly filed for all of the one time cost in 2005 based on the funding commitment data obtained via the data retrieval tool on the School and Libraries Division website.
- Given the timing of the audit and the discovery of our error, plus the subsequent exchange of finding and response documents, the window for correcting the error by applying for reimbursements in 2006 and 2007 and returning the 2005 reimbursed funds have passed.
- In addition, it is our understanding that the FCC Bishop Perry Order of May 2006 provides districts the opportunity to cure ministerial and clerical filing errors regarding FCC E-Rate forms.

SCHOOL BOARD:
Tom Heidemann, Chair
John Hoffman, Vice Chair
Marci Anderson, Clerk



Dennis L. Carlson, Superintendent

Kathy Tingelstad, Treasurer
Mike Sullivan, Director
Dr. Scott Wenzel, Director

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We feel that the District is not requesting any funds that have not been approved per program rules. While we acknowledge that we filed in error and were reimbursed the one time cost in the first year instead of over three years, we would have been reimbursed the same amount by the end of Funding Year 2007 had we not made the ministerial error. As indicated above, the timing of the audit and subsequent report/response exchanges did not allow us to file for reimbursements in 2006 and 2007 due to the expiration of BEAR Form submission deadlines. In order to enable us to rectify the filing error we are requesting that the Schools and Libraries Division:

- Consider applying the \$90,675 reimbursed under Funding Year 2005 towards funds approved for Funding Years 2006 (FRN: 1396101) and 2007 (FRN: 1512233) but not filed for and reimbursed, or
- Alternatively, allow us to return the \$90,675 reimbursed in Funding Year 2005 and grant us an opportunity to file for the amortized funds that were approved in Funding Years 2006 and 2007 by providing an invoice deadline extension so that we can file the appropriate BEAR Forms.

In summary, we feel our request is reasonable and are requesting retaining the funds or the opportunity to reapply. In either case we would not receive funds that would exceed those that were approved. We look forward to a favorable response.

Should you have any question, please feel free to call me at 763-506-1020 or email me at Patrick.plant@anoka.k12.mn.us

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patrick Plant', written over a horizontal line.

Patrick Plant
Chief Technology and Information Officer

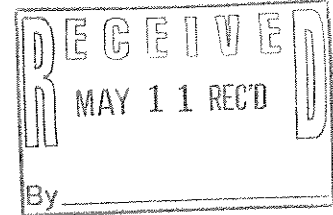


Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

May 08, 2009

Patrick Plant
Anoka-Hennepin School District 11
11299 Hanson Blvd. NW
Coon Rapids, MN 55433



Re: Applicant Name: ANOKA-HENNEPIN SCHOOL DIST 11
Billed Entity Number: 133637
Form 471 Application Number: 481304
Funding Request Number(s): 1331403
Your Correspondence Dated: March 13, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2005 Notification of Improperly Disbursed Funds Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1331403
Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that the applicant incurred up front pre-discount lease costs of \$523,000 which were approved with a three-year amortization period. The applicant failed to properly amortized these capital costs and received excess reimbursement in year one (2005) of the amortization period. On FCC Form 472, Billed Entity Applicant Reimbursement Form (BEAR), the authorized person certifies at Block 3, Item A, that discount amounts for which reimbursement is sought "represent charges for eligible services delivered to and used by" eligible entities. The Beneficiary acknowledges it did not properly amortize the costs. The inclusion of these amortized costs resulted in excess reimbursement for ineligible charges. Therefore, USAC will seek a recovery of \$90,675.00 for the amortized dollar amount, and the additional \$15,117.90 for the ineligible items: 5% of DCSI

100KVA/80KW Liebert UPS and associated materials (Invoice 7300), 5% of 2700VA/1890W 2U Liebert UPS and associated materials (Invoice #7421), 9Pos Power strips 60" long (Invoice #7523), and other ineligible equipment per the applicant associated with the fiber optic network. For the invoice deadline extension request, please refer to the SLD website at <http://www.universalservice.org/sl/applicants/step11/invoice-deadlines-extension-requests.aspx>. Hence the appeal is denied.

- FCC rules provide that funding may be approved only for eligible products and services. See 47 C.F.R. secs. 54.502, 54.503. The USAC website contains a list of eligible products and services. See the website, www.usac.org/sl, Eligible Services List. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. See 47 C.F.R. sec. 54.504(d).
- SLD improperly disbursed funding for services that were not provided or equipment that was not installed as approved on the applicant's FY2005 FCC Form 471. FCC rules authorize USAC to disburse funds to service providers for providing supported services to eligible entities. 47 C.F.R. §§ 54.501(a), 54.517. These rules are violated if the service provider receives payment for services and/or products that were not delivered to the eligible entity. In the Fifth Report and Order, the Commission stated that it would not be appropriate "for a beneficiary to retain an overpayment if, for some reason, USAC has mistakenly disbursed an amount in excess of that which the entity is allowed under our rules". See Federal State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Fifth Report and Order and Order*, 19 FCC Rcd at 15821-22, 30, FCC 04-190, ¶ 29 (rel. Aug. 13, 2004). The FCC further states that "the service provider is likely to be the entity that fails to deliver supported services within the relevant funding year, fails to properly bill for supported services" and therefore, the service provider should be a party to whom recovery should be directed. Federal State Joint Board on Universal Service, Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Schools and Libraries Universal Service Support Mechanism, *Order on Reconsideration and Fourth Report and Order*, 19 FCC Rcd 15252, FCC 04-181, ¶ 15 (rel. Jul. 30, 2004).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting

the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

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Date March 13, 2009

Letter of Appeal
Schools and Libraries Division
Dept. 125 – Correspondence Unit
100 South Jefferson Road
Whippany, NJ 07981

Dear Sir:

This is a letter of appeal. I have received a copy of Notification of Improperly Disbursed Funds Letter dated February 11, 2009 for Funding Year 2005 and would like to appeal the amount being requested for recovery.

1. Applicant Name: Anoka-Hennepin School District 11
2. Contact Name: Patrick Plant
Phone: (763) 506-1020
Email: Patrick.plant@anoka.k12.mn.us
3. Applicant BEN: 133637
4. SPIN: 143006979
5. Service Provider Name: Access Communications Technologies
6. FCC Registration Number: 0026077612
7. Form 471 Application Number: 481304
8. FRN: 1331403

Of the total recovery amount of \$105,792.90 the District is appealing the recovery of \$90,675 (pre-discount amount \$201,500) which is the amount that was included in Funding Year 2005 and should have been amortized over 3 years across Funding Years 2005, 2006, and 2007. Since the District did not include these charges in Funding Years 2006 and 2007 reimbursement request and since the District did not claim the total amount approved for Funding Years 2006 and 2007, I would like to request that the SLD either:

1. Apply the recovery of \$90,675 against the funds approved for Funding Years 2006 and 2007 but not requested. The application and FRN particulars are as follows:
 - Funding Year 2006: Form 471# 508025, FRN: 1396101
 - Funding Year 2007: Form 471# 547912, FRN: 1512233

TOM HEIDEMANN, CHAIR
JOHN HOFFMAN, VICE CHAIR
MARCI ANDERSON, CLERK



KATHY TINGELSTAD, TREASURER
MIKE SULLIVAN, DIRECTOR
DR. SCOTT WENZEL, DIRECTOR

DENNIS L. CARLSON, INTERIM SUPERINTENDENT

or

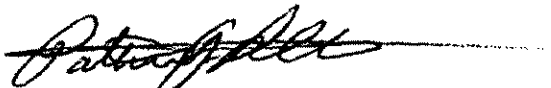
2. The SLD grant an invoice deadline extension for Funding Years 2006 and 2007 for the above listed Form 471 applications and the FRNs so that the District could file for the amortized cost over the remaining 2 years.

As indicated in our response to the audit findings, the inclusion of all of the charges in the first year instead of amortizing across 3 years was an error resulting from our consultant relying only on the information provided by the data retrieval tool available on the SLD web site and not cross referencing it with the Funding Commitment Decision Letter. We have since improved our internal process to make sure that such errors do not occur.

I am requesting that the SLD grant our appeal either by obtaining the recovery amount of the incorrectly amortized amount of \$90,675 from the balance available from Funding Years 2006 and 2007 under FRNs 1396101 and 1512233 respectively or by granting an invoice deadline extension for the two funding years 2006 and 2007 so that the District could file BEAR Forms for reimbursement.

Should you have any questions, please feel free to call me. I look forward to a favorable decision.

Sincerely,

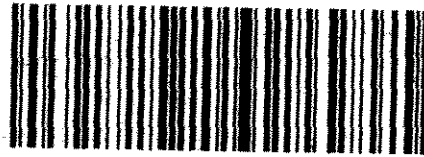


Patrick Plant
Chief Technology and Information Officer
Anoka-Hennepin School District 11

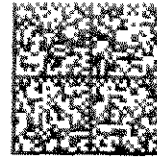


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